

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

JASON A. COPSON, a/k/a Scott E.
Berry,
Petitioner-Appellant,

No. 98-7832

v.

VIRGINIA PAROLE BOARD,
Respondent-Appellee.

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
T.S. Ellis, III, District Judge.
(CA-98-1388-AM)

Submitted: May 31, 2000

Decided: September 12, 2000

Before NIEMEYER, LUTTIG, and WILLIAMS, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

COUNSEL

Jason A. Copson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

Jason Copson appeals the district court's order dismissing as untimely a pro se petition that he labeled as filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000). We find that the court should have construed Copson's petition as one filed under 28 U.S.C. § 2241 (West 1994). Because § 2241 petitions are not subject to the one-year time limitation period prescribed by 28 U.S.C.A. § 2244(d)(1) (West 1994 & Supp. 2000), we conclude the district court erroneously dismissed Copson's petition as untimely filed. Because reasonable jurists would find it debatable whether Copson made a substantial showing of the a denial of a constitutional right in his§ 2241 petition, we grant a certificate of appealability as to whether Copson was deprived of due process in the execution of his sentence. See Slack v. McDaniel, 120 S. Ct. 1595 (2000); 28 U.S.C.A. § 2253(c) (West Supp. 2000). We further vacate the district court's order and remand the case for the court to consider the merits of Copson's claims under § 2241. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED